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Attorneys for Plaintiffs
KOHLER COMPANY and
ANN SACKS TILE AND STONE, INC.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

KOHLER COMPANY and ANN SACKS
TILE AND STONE, INC.,

Plaintiffs,

VS.

DOMAINJET, INC.; JACK SUN; and
DOES 1 through 10, inclusive,

Defendants.

Case No. 3:11-CV-1767-BEN-CAB

**PLAINTIFFS' EX PARTE
APPLICATION FOR AN ORDER (1)
SHORTENING TIME FOR
HEARING ON MOTION FOR
LEAVE TO SERVE SUMMONSES
AND COMPLAINT BY
ALTERNATIVE MEANS AND FOR
AN EXTENSION OF TIME TO
COMPLETE SERVICE OF
PROCESS**

[Submitted concurrently with Notice of Motion and Motion for Leave to Serve by Alternative Means, and (Proposed) Orders]

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

EX PARTE APPLICATION

Pursuant to Local Rule 7.1(e)(5), Plaintiffs Kohler Company and Ann Sacks Tile and Stone, Inc. (collectively “Plaintiffs”) hereby apply *ex parte* to shorten the time for hearing on Plaintiffs’ concurrently-filed Motion for Leave to Serve Defendants by Alternative Means and For An Extension of Time to Complete Service of Process on Defendants Domainjet, Inc., Jack Sun, and John Doe (collectively “Defendants”) (the “Motion”), such that the Motion can be heard on or before December 6, 2011, the current deadline to serve defendants in this action.

This Application is made on the grounds that good cause exists for this *ex parte* application because the hearing on the Motion is presently scheduled for January 3, 2012 (which was the first available date on regular notice that Plaintiffs could obtain from the Court Clerk), and if the Motion is heard at that time any relief the Court is inclined to grant would be rendered meaningless because deadline for service would have already expired.

This Application is based on the Application and the accompanying Memorandum of Points and Authorities, the concurrently-filed Notice of Motion and Motion for Leave to Serve Complaint and Summons By Alternative Means And For An Extension of Time to Complete Service of Process, the Memorandum of Points and Authorities and Declarations of Paul D. McGrady and Michael Frias thereto, the Court's records and files in this action and upon such other evidence and argument as may be presented to the Court at or before the hearing on this matter.

Under the circumstances set forth herein wherein Plaintiffs' efforts to reach and serve Defendants to date have been unsuccessful, Plaintiffs believe that providing notice to the Defendants of this *Ex Parte* Application and the underlying Motion and supporting papers will be futile. Nonetheless, Plaintiffs have served copies of this Application, the

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1 Motion and all supporting papers at (1) Defendants' last known email address, and (2)
2 Defendants' last known physical address.

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4 DATED: November 23, 2011

GREENBERG TRAURIG, LLP

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6 By: /s/ William Q. Tran

7 William Q. Tran

8 Attorneys for Plaintiffs KOHLER
COMPANY and ANN SACKS
9 TILE AND STONE, INC.

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MEMORANDUM OF POINTS AND AUTHORITIES

In support of their *Ex Parte* Application for an Order (1) shortening time on Plaintiffs' Motion , Plaintiffs state as follows:

1. Plaintiffs initiated the instant lawsuit against Defendants on August 8, 2011, alleging, *inter alia*, violations of the Anti-cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d) and the Lanham Act, 15 U.S.C. § 1114.

2. Pursuant to Federal Rule 4(m), Plaintiffs have until December 6, 2011 to effectuate service on Defendants.

3. On November 23, 2011, concurrently with this *Ex Parte* Application, Plaintiffs filed their Motion to serve the Defendants by alternative means and to extend the deadline for service.

4. The Clerk has scheduled this Court to hear Plaintiffs' Motion on January 3, 2012.

5. Under Federal Rule 4(m), the Court may extend the time for service upon a showing of “good cause.”

6. As set forth more fully in Plaintiffs' concurrently-filed Memorandum of Points and Authorities and Declarations of Paul D. McGrady and Michael Frias in support of the Motion, Plaintiffs exercised reasonable diligence in attempting to locate and serve Defendants, but they were ultimately unsuccessful.

7. Because Plaintiffs have not yet located the Defendants and Plaintiffs' Motion will not be heard by this Court until January 3, 2012, which is after the date service must be effectuated, Plaintiffs respectfully request that this Court shorten the time for hearing on the Motion so that it can be heard on or before December 6, 2011.

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3 DATED: November 23, 2011

GREENBERG TRAURIG, LLP

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5 By: /s/ William Q. Tran
6 William Q. Tran
7 Attorneys for Plaintiffs KOHLER
8 COMPANY and ANN SACKS
9 TILE AND STONE, INC.

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE:

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is **3161 Michelson Drive, Suite 1000, Irvine, California 92612**.

On the below date, I served Plaintiffs Kohler Company and Ann Sacks Tile and Stone, Inc.'s **PLAINTIFFS' EX PARTE APPLICATION FOR AN ORDER (1) SHORTENING TIME FOR HEARING ON MOTION FOR LEAVE TO SERVE SUMMONSES AND COMPLAINT BY ALTERNATIVE MEANS AND FOR AN EXTENSION OF TIME TO COMPLETE SERVICE OF PROCESS** on the interested parties in this action by placing the true copy thereof, enclosed in a sealed envelope, postage prepaid, addressed as follows:

Defendants' Last Known Addresses:

Domainjet, Inc., et al.
1016 8th Avenue
San Diego, California 92101

Jack Sun, An Individual
1016 8th Avenue
San Diego, California 92101

Domainjet, Inc., et al.
1800 Amphitheatre Parkway
Mountain View, California 94043

Jack Sun, An Individual
1800 Amphitheatre Parkway
Mountain View, California 94043

(BY ELECTRONIC SERVICE)

On the below date, Defendants, Domainjet, Inc., and Jack Sun, an individual, were also served by email at the following email address:

domainjet@foxmail.com

(FEDERAL) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed at the office of a member of the bar of the Court and at whose direction the service was made.

Executed on November 23, 2011 at Irvine, California.

/s/ Maritza Sandoval

Sandoval, Maritza (Para-OC-LT)

From: Sandoval, Maritza (Para-OC-LT)
Sent: Wednesday, November 23, 2011 4:04 PM
To: 'domainjet@foxmail.com'
Cc: Tran, Q. William (Assoc-OC-LT)
Subject: Kohler v. DomainJet, Inc., et al.

Attachments: (Proposed) Order on Ex Parte Application to Shorten Time.doc; Ntc and Mot for Alternative Service, Etc.doc; Memo of P&A for Mtn re Alternate Service and Extend Time to Serve.doc; Ex Parte Application to Shorten Time.doc; (Proposed) Order on Mtn for Alternative Service Etc.doc

Please see attached documents.

Maritza Sandoval
Temp Litigation Paralegal
Greenberg Traurig, LLP | 3161 Michelson Drive | Suite 1000 | Irvine, CA 92612
Tel 949.732.6685
sandovalm@gtlaw.com | www.gtlaw.com



Sandoval, Maritza (Para-OC-LT)

From: Sandoval, Maritza (Para-OC-LT)
Sent: Wednesday, November 23, 2011 4:15 PM
To: 'domainjet@foxmail.com'
Cc: Tran, Q. William (Assoc-OC-LT)
Subject: Kohler v. Domainjet, Inc., et a. -

Attachments: (Proposed) Order on Ex Parte Application to Shorten Time.doc; (Proposed) Order on Mtn for Alternative Service Etc.doc; Ex Parte Application to Shorten Time.doc; Memo of P&A for Mtn re Alternate Service and Extend Time to Serve.doc; Ntc and Mot for Alternative Service, Etc.doc

Please see attached documents directed to Jack Sun, An Individual.

Maritza Sandoval
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